

CHARGE: Between 12-1-54 and 12-4-54, *dextro-amphetamine sulfate tablets* were dispensed 3 times without a prescription.

PLEA: Not guilty.

DISPOSITION: The case came on for trial before the court without a jury on 11-15-55, and at its conclusion, the court found the defendant guilty. On 7-6-56, the court sentenced the defendant to 4 months in prison, but suspended this sentence, and placed him on probation for 2 years without supervision.

5092. (F. D. C. No. 38574. S. Nos. 35-901/6 M.)

INFORMATION FILED: 3-3-56, N. Dist. Ind., against Hubert H. Fischer, t/a Fischer's Drug Store, Kendallville, Ind.

CHARGE: Between 8-24-55 and 9-12-55, *Benzedrine Sulfate tablets* were dispensed 3 times, and *Gantrisin tablets*, *dextro-amphetamine sulfate tablets*, and *pentobarbital sodium capsules* were each dispensed once, without a prescription.

PLEA: Nolo contendere..

DISPOSITION: 6-25-56. \$300 fine; jail sentence of 1 year on each of the 6 counts of the information suspended and defendant placed on probation for 5 years.

5093. (F. D. C. No. 38588. S. Nos. 37-220 M, 47-507 M, 47-520 M.)

INDICTMENT RETURNED: 2-16-56, Dist. N. J., against Reginald Doyle Groves, t/a Groves Pharmacy, Newark, N. J.

CHARGE: Between 12-5-55 and 1-9-56, *Benzedrine Sulfate tablets*, *Racephen tablets*, and *capsules containing a mixture of secobarbital sodium and amobarbital sodium* were each dispensed once without a prescription.

PLEA: Guilty.

DISPOSITION: 4-27-56. Defendant sentenced to serve 2 years in jail, given 3-year suspended jail sentence, and given 5 years' probation to start on completion of jail sentence.

5094. (F. D. C. No. 38578. S. Nos. 17-987 M, 17-997 M, 18-312 M.)

INFORMATION FILED: 2-23-56, Dist. N. J., against Louis H. Fortgang, t/a Prebol Drug Co., Passaic, N. J.

CHARGE: Between 5-13-55 and 5-24-55, *Seconal Sodium capsules* and *Butazolidin tablets* were each dispensed once upon requests for prescription refills without authorization by the prescribers, and *dextro-amphetamine sulfate tablets* were dispensed once without a prescription.

PLEA: Guilty.

DISPOSITION: 5-10-56. \$300 fine; jail sentence of 1 year suspended and defendant placed on probation for 1 year.

5095. (F. D. C. No. 38552. S. Nos. 2-864 M, 2-867 M, 2-872 M, 3-443 M, 3-449 M, 3-621 M, 3-652 M.)

INFORMATION FILED: 4-25-56, Dist. Mass., against Phillips Drug Co., Inc., Boston, Mass., Charles C. Spagnolo (president), and Joseph Greenblatt (pharmacist).

CHARGE: Between 3-8-55 and 4-6-55, *Seconal Sodium capsules* were dispensed 4 times, *Butazolidin tablets* were dispensed twice, and *Pentids tablets* were dispensed once upon requests for prescription refills without authorization by the prescribers.

PLEA: Guilty.

DISPOSITION: 2-18-57. Fine of \$500 against corporation, \$300 against Spagnolo, and \$200 against Greenblatt.

5096. (F. D. C. No. 36597. S. Nos. 82-156/8 L, 82-163/5 L.)

INDICTMENT RETURNED: 10-27-54, W. Dist. Mo., against Black's Prescription Shop, Inc., Kansas City, Mo., Lorren R. Black (president), and Virgil L. Haag and George E. Nicholas (pharmacists).

CHARGE: Between 2-10-54 and 3-4-54, *tablets containing a mixture of sulfadiazine, sulfamerazine, sulfamethazine, and penicillin G potassium* (counts 1, 2, and 3) and *tablets containing phenobarbital* as one of the ingredients (counts 4, 5, and 6) were each dispensed 3 times upon requests for prescription refills without authorization by the prescriber.

PLEA: Not guilty—by corporation and Black to all counts of the indictment; by Haag to counts 1 and 3; and by Nicholas to counts 4 and 6.

DISPOSITION: On 11-3-55, a motion for dismissal of the indictment as to Lorren R. Black was filed; on 11-22-55, the court entered the following order in denial of such motion:

DUNCAN, *Chief Judge*: "On October 27, 1954, the defendants were charged in six counts of an indictment with violating § 353 (b) (1) (B), Title 21 U. S. C. as amended. The first count of the indictment charges:

That thereafter, on or about February 19, 1954, and while a number of tablets of said drug were being held for sale after shipment in interstate commerce, as aforesaid, at Black's Prescription Shop, Inc., 1125 Grand Avenue, Kansas City, Missouri, the said Black's Prescription Shop, Inc., a corporation, organized and existing under the laws of the State of Missouri, and trading and doing business at Kansas City, Missouri, and Lorren R. Black, at the times hereinbefore mentioned president and treasurer of said corporation, and Virgil L. Haag, an individual, at the times hereinbefore mentioned a pharmacist for said corporation, the *defendants* herein, did, at Kansas City, Missouri, within the Western Division of the Western District of Missouri, cause a number of tablets of said drug to be dispensed in a vial to one James R. Green, upon his request for a refill of a written prescription identified as No. 487494, without obtaining authorization by the prescriber.

* * * * *

That said act of causing the dispensing of said drug, as aforesaid, was an act caused to be done by said *defendants*, contrary to the provisions of 21 U. S. C. 353 (b) (1), which resulted in said drug in said vial being misbranded while held for sale, in violation of Title 21, United States Code, Section 331 (k). [Emphasis supplied.]

"The defendant Lorren R. Black has filed a Motion to Dismiss the indictment as to him. Accompanying the Motion to Dismiss is a stipulation which has been filed by the District Attorney and the attorney for the defendants, stipulating—

That the defendant Lorren R. Black did not physically participate in any act charged to have been caused, done or performed by him, as alleged in Counts I to VI inclusive of the Indictment herein.